

**CIVIL NO. 98-1893 (JAG)**

**INSTRUCTION # 53**

**DAMAGES-PROOF**

It is the duty of the Court to instruct you about the measure of damages. By instructing you on damages, the Court does not mean to suggest for which party your verdict should be rendered.

If you find for the plaintiffs [on plaintiff's \_\_\_\_ claim], you must determine the plaintiffs' damages. The plaintiff has the burden of proving damages by a preponderance of the evidence. Damages mean the amount of money, which will reasonably and fairly compensate the plaintiffs for any injury you find was caused by the defendant. In determining the measure of damages, you should consider:

[The nature and extent of the injuries;]

[The [mental], [physical], [emotional] pain and suffering experienced since the injuries until his death.

The reasonable value of burial expenses received to the present time;]

The plaintiffs have the burden of proving damages by a preponderance of the evidence, and it is for you to determine what damages, if any, have been proved.

Your award must be based upon evidence and not upon speculation, guesswork or conjecture.

Source: Manual of Model Civil Jury Instructions for the District Court of the Ninth Circuit No. 7.1, 7.2 and Vda. Delgado v. Boston Insurance, 101 D. P.R. 598 (1973).